

# Victims Compensation Quarterly

**Dedicated to Providing Compassionate Services to our Constituents**

***MY CHILD WAS JUST KILLED BY A DRUNK DRIVER.  
WHERE CAN I GET HELP WITH BURIAL EXPENSES?***

**Families of homicide victims are often without funds to immediately pay for funeral/burial expenses.**

Recently, a nine-month old baby in Alameda County died as a result of “shaken baby syndrome”, and a 22-year old male was killed in Riverside County by gang members. Funeral/burial costs had to be paid immediately, but no money was available. Due to a new pilot program, the Victim/Witness Assistance Centers in each county were able to provide payment to the service providers **within 48 hours of the crime**.

The State Board of Control (Board) Victims of Crime Program (VOCP) currently provides a maximum of \$5,000.00 for a victim's funeral/burial expenses, and the average processing time for payment to service providers is 4 weeks. However, a victim's survivors must secure **immediate** funding before these necessary services can be obtained. To increase services to victims and ease this financial burden, the Board recently advanced funding to several counties to establish a revolving account to be used exclusively for payment of funeral/burial expenses for victims who meet the Program's eligibility requirements.

The Board has entered into agreements with Riverside, Alameda and San Joaquin counties whereby each is now authorized to use funds from the revolving account to expedite payments directly to service providers. Once the county pays the funeral/burial expenses, a regular claim is processed and the Board reimburses the county revolving fund account with monies from the Restitution Fund. The Board intends to expand this pilot program to include all counties with Joint Powers (JP) Agreements.

This program is a part of the Board's commitment to develop new and innovative methods to meet the needs of victims.

## **EVERYDAY THERE IS NEWS ABOUT CRIME IN CALIFORNIA**

**Each year, thousands of people are killed or injured in this state as a result of crime. These crimes include robberies, child abuse, rapes, domestic violence and other serious crimes. If you have been a victim of crime in California, the Victims of Crime Program may be able to assist you.**

# Victims of Crime Program

## Mission Statement

The California Victims of Crime Program's mission is to ease the financial burden of crime victims through reimbursement of qualifying losses incurred as a result of a crime.

We believe in:

- **Commitment to Service**

Victim's compensation is one of the key elements in providing for the needs of victims. As such, applications for reimbursements should be processed quickly, efficiently, fairly, consistently, and with sensitivity.

- **Dedicated Staff**

The sensitivity and commitment of our staff plays a valuable role in accomplishing our mission.

- **Focus on Victims**

Each application and claimed loss that we receive on behalf of a victim should be reviewed in an objective manner without bias. We have a responsibility to process qualifying applications and bills for service in a way that maximizes the benefits to the victim. Although we have an obligation to safeguard against misuse of funds, such efforts should not preclude the timely and sensitive resolution of claims.

- **Protecting Privacy**

All victims deserve to have the information in their files protected with the utmost confidentiality allowed by law.

- **Importance of Victim Services Network**

Law enforcement, Victim/Witness Assistance Centers, other victim's representatives, and service providers offer a myriad of important services to victims. All of these entities play a key role in victims recovery and deserve our cooperation and to be accurately informed regarding the status of claims in which they are involved. Prompt payment for covered services supports both the victims' recovery and continued availability of victims' services.

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## **A Message from Executive Director Darlene Ayers-Johnson**

**T**he VOCP, which is administered by the State Board of Control, was established in 1965, and is both the oldest and largest victim's compensation program in the nation. The VOCP provides reimbursement for medical, psychological, funeral/burial, income loss, and rehabilitation expenses to individuals who are victims of a qualifying crime, as defined by the legislature. Family members and dependents may also qualify for counseling and/or support loss payments. The VOCP is supported by the Restitution Fund, which receives its state revenue from fines and penalties assessed against convicted defendants and a federal grant from the Victims of Crime Act.

As part of our effort to increase public awareness about the purpose and availability of crime victim compensation, we have developed this Quarterly Newsletter for distribution to

Victim/Witness Advocates, Judges, District Attorneys, and other professionals who work with crime victims. This Newsletter was created to provide information on a wide variety of topics to ensure that parties are fully informed and updated on the compensation provided by the VOCP and the issues that affect victims, such as domestic violence and child abuse. Also featured will be information of interest to practitioners in medicine and mental health, such as the nature, level and scope of benefits provided by the VOCP and compensation factors affecting the VOCP, such as new legislation.

The Newsletter is also intended to promote public dialogue relating to victims' issues and will include articles submitted by victim advocates and other professionals. This publication is a part of the VOCP's extensive



outreach effort to build and promote collaborative working relationships within the victim community. As the Board's Executive Director, I am very committed to this effort and believe that the VOCP's mission to provide financial assistance to help people recover from the effects of violent criminal activity is a critical component to the victim services network. **We welcome your comments and suggestions.**



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### **Protecting the Privacy of Victims**

#### ***How can I be sure my file will remain confidential?***

**A** victim of crime has a high and reasonable expectation that the information they submit to the Board will remain private. These privacy considerations extend to a minor or adult victim, a victim's representative, service providers, family members, and the public. The Board has developed the following guidelines to ensure that material submitted in support of a victim's application remains private.

#### ***Adult victims***

An adult victim or his/her representative is entitled to receive documents in response to his/her written request, after

the proper identification is provided to Board staff. This does not generally include the release of police reports, which the victim must obtain directly from the law enforcement agency. In those situations where telephone inquiries are received, Board staff will obtain sufficient information to identify the caller before the information is released. Information may include the victim's date of birth, claim number and/or social security number. Mental health records are normally available to an adult victim, unless there are unusual circumstances. The only means by which the Board will disclose information to any

person other than the victim or his/her representative is by subpoena or court order.

#### ***Minor victims***

A minor victim's documents are available to the minor, the minor's custodial parent or legal guardian who file the claim, or the attorney or authorized representative for the minor. If a parent who did not file the claim requests that the Board provide documents, permission from the custodial parent or legal guardian who filed the claim is required. The Board will not release juvenile court records, petitions, probation officer reports, and police records other than to the above, even in

## INFORMATION SHARING

### **Communication is Essential To Victims' Recovery**

One of the goals of the Board's Strategic Business Plan is to inform as many individuals as possible about victim's compensation and assistance available from the VOCP. Board staff has been extensively involved in a variety of outreach activities within the victim services network, which includes Law Enforcement, Victim/Witness Assistance Centers, and service providers. The theme developed for the Board's outreach activities is **"Information Sharing"**.

In April 1996, the Board established its own website on the World Wide Web at <http://www.boc.cahwnet.gov>. Through the use of this technology, the Board is increasing public awareness about the VOCP and providing information such as how to apply for VOCP assistance, basic eligibility requirements, and types of expenses eligible for reimbursement.

### **Information Sharing activities within various divisions of the Board include:** **Agency Claims Processing Section**

In September 1998, the Claims Processing Section conducted a training seminar in Susanville for nine Victim/Witness centers located in the state's Northeastern region. The Board's Deputy Executive Director provided information on topics such as the new geographical reorganization and contact points within the Board, upcoming legislation, and new outreach efforts. Several of the Board's management staff have also recently visited most of the 58 county Victim/Witness Assistance Centers to ensure the success of the Board's

regionalization efforts.

### **Training Section**

The Board's Training Section recently conducted training seminars for the Office of Criminal Justice Planning (OCJP) and new victims' advocates throughout the state. These seminars included updates on various changes within the VOCP relating to benefit levels, eligibility guidelines, procedures and service excellence. At these seminars, Board staff had the opportunity to engage in discussions with OCJP staff and other parties regarding victim's issues and further develop and promote a collaborative working relationship. Training Section staff also provided victims services training for the State Department of Aging.

### **Legislation, Policy, and Special Services Section**

In 1995, the Legislation, Policy, & Special Services (LPSS) Section staff was assigned responsibility for facilitating certain aspects of the Board's outreach expansion efforts. LPSS staff has conducted outreach at several victim services conferences and an education conference sponsored by the Sacramento Unified School District. Other activities include conducting meetings with representatives from a local juvenile delinquency prevention organization and distributing VOCP information at various women's health seminars. Recently, LPSS staff developed a VOCP conference folder and media packet for use at upcoming Board training workshops.

Outreach activities currently in the planning stage include identifying publications in which the VOCP's services may be advertised and a public awareness campaign using the

media for various public service announcements.

### **Audits and Investigations Branch**

The Board's Audits and Investigations Branch (AIB) routinely conducts statewide on-site outreach and billing reviews of mental health providers. These reviews allow AIB staff the opportunity to answer various questions regarding a provider's billing and offer information to facilitate reimbursement of mental health expenses.

### **Revenue Recovery and Compliance Division**

For the past eight years, the Revenue Recovery and Compliance Division (RRCD) has been involved in restitution outreach activities within the law enforcement community. The RRCD has also held restitution-training seminars for various associations, including California Court Clerks, Judicial College, and Chief Probation Officers. In June, the RRCD conducted a restitution seminar for the Western Regional Conference of the National Association of Victim Compensation Boards in Oakland.

With the approval of the Commission of Peace Officers Standards and Training (POST), a pilot project is being instituted with the Oakland Police Department to determine the most effective way of educating law enforcement about the VOCP. POST has also developed training videos, which will provide VOCP information to law enforcement.

Many times, firefighters are the first to arrive at the scene of a crime. Therefore, the RRCD recently conducted three days of training for Sacramento fire department captains. A pilot

## **“Information Sharing”**

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project is also underway to train fire department captains in West Sacramento and Oakland.

Future editions of this publication will include new **Information Sharing** activities within the victims services network. **We welcome any comments or suggestions you may have regarding these efforts.**



## **New Domestic Violence Guidelines Children as Direct Victims**

The following statistics demonstrate that domestic violence has long term detrimental effects on children:

**Each year, an estimated 3.3 million children in the United States are exposed to violence against their mothers or female caretakers.**

**When children are killed during a domestic dispute, 90% are under age 10 and 56% are under age 2.**

Currently, the VOCP provides up to \$10,000.00 for outpatient mental health treatment to individuals who are a direct victim of a crime, which resulted in physical injury, or threat of physical injury. Specified family members (derivative victims) are

eligible to receive a maximum of \$3,000.00 for mental health treatment as a result of the crime.

As part of the Board's mission to ensure that eligibility for VOCP benefits is determined fairly and consistently, in complex areas such as domestic violence and child molest, the Board developed specific guidelines for staff to follow when making determinations on eligibility. In developing these guidelines, the Board considered the unique dynamics of these different types of crimes.

The Board, in coordination with Victim Witness Assistance Centers, domestic violence programs, and District Attorney Offices, recently developed new guidelines that clarify when children can qualify as direct victims in crimes involving domestic violence. The VOCP benefits available for mental health treatment will increase from \$3,000.00 to \$10,000.00 for each child who qualifies as a direct victim.

A child who witnesses an incident of domestic violence (interpreted as seeing or hearing it) in the immediate vicinity where the domestic violence occurs is now considered to be in threat of physical injury. This qualifies the child as a direct victim if a crime report or other appropriate type of supporting documentation verifies the child saw or heard the domestic violence. The additional supporting documentation may also consist of a letter from law enforcement or child protective services indicating the opinion that the child was a witness to domestic violence.

In the event that the above documentation is either

unavailable or inconclusive as to the presence of children in the home or their fear of physical injury, Board staff are able to use any one or a combination of the following means of documentation:

- A written statement from an eyewitness;
- A written statement from a counselor at a battered women's shelter;
- A restraining order which requires the perpetrator to stay away from children with the supporting declaration that indicates the children had been or were under threat of physical injury;
- A child's statement made under conditions where credibility is affirmed (i.e. not coached);
- Other credible evidence.

**The inclusion of children as direct victims is a part of the Board's commitment to provide assistance and support to all victims of domestic violence.**



### **The Victims Compensation Quarterly is published by:**

**State Board of Control  
630 K Street, 2nd Floor  
Sacramento, CA 95814**

**Executive Director:  
Darlene Ayers Johnson**

**Managing Editor:  
Tim Eldred**

**Contributing Writers:  
Jennifer Posehn  
Barbara Penfield**

**If you would like to submit  
a column for publication,  
we can be contacted at:**

**Phone (916) 322-0685**

**Fax (916) 445-3779**

**Toll Free For Victims:  
1-800-777-9229**

**<http://www.boc.cahwnet.gov>**



## **GEOGRAPHICAL REORGANIZATION WITHIN THE VICTIMS OF CRIME DIVISION**

In an effort to maximize efficiency in claims processing, the VOCP has tested several methods of assigning claims to staff within the VOCP's Claims Processing Branch. Until recently, claims were assigned primarily on the basis of type of crime. The Board initially adopted this method to ensure that claims were processed consistently and to develop staff expertise in issues presented by different types of crimes, such as domestic violence and child molest. While this method of claims assignment did lend consistency in claims processing decisions on specific crimes, it resulted in the distribution of claims from throughout the state to various staff within the VOCP. This has complicated the ability of Board staff to develop effective communication and rapport with Victim Witness Assistance Centers and service providers.

With its commitment to increased outreach and working to build partnerships within the victim community, the Board's Executive Director recently approved a new method for the assignment of claims, which involves a geographical reorganization within the VOCP. The objective is to centralize the processing of all victims' claims evolving from a geographic region, instead of by crime type. That way, each region will have a "single point of contact" within the VOCP and that contact can gain expertise in local issues and become an integral part of the victims network. Therefore, the decision was made that all non Joint-Powers (JP) claims are assigned to staff according to the county in which the crime occurred. This concept is also being extended to select JP counties on a pilot basis.

To implement this reorganization, the VOCP's agency claims processing teams have been realigned into five geographical regions: the Northern Region, Coastal Region, Central Region, Southern Region, and Southern Coastal Region. The VOCP has designated a Program Manager to provide guidance and support to each region. This "single point of contact" approach will enhance the level of service to victims and service providers and further develop working relationships within the victim community.

NOTE: Exceptions to this reorganization are those claims involving Non Profit Agreements, Emergency Awards, and those claims subject to review by the Board's Quality Assurance Mental Health Section.



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## **NEW POLICY ALLOWS VEHICLE PURCHASE**

**Assistance is now available for disabled victims of crime who need transportation to work and medical appointments.**



At its hearing on June 3, 1998, the Board adopted a proposal to purchase vehicles for disabled victims when the purchase is deemed a medical necessity. Previously, Board staff authorized payments of necessary vehicle conversions for disabled victims, but not the vehicle itself. Under the new guidelines, Board staff may recommend payment of a vehicle for disabled victims if:

- The applicant provides a written request describing the medical necessity for a specially equipped van, and an explanation of why conversion of an existing vehicle is not an acceptable option in order to

(a) maintain required medical appointments (b) successfully participate in an employment retraining program, or (c) return to work; and

- A physician's statement documents the medical need, and explains why conversion of an existing

## **“Vehicles”**

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vehicle or use of public transportation is not adequate in order to (a) maintain required medical appointments (b) successfully participate in an employment retraining program, or (c) return to work; **and**

- Reimbursement is limited to the cost of a “stock” vehicle and conversion. Any upgrades or extra accessories are the responsibility of the applicant; **and**

- The request and supporting documentation have been reviewed and approved by the Program’s Assistant Deputy Executive Director or Agency Claims Processing Manager.

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## **NEW LEGISLATION IMPACTS VICTIMS**

**1998** was a very busy legislative year for the Board. Several major bills were passed which enhanced and refined statutes governing the VOCP. Bills were authorized by Assembly Members **Brown (AB 535)**, **Escutia (AB 645)**, **Lempert (AB 1803)**, **Knox (AB 2319)**, and Senate Member **Haynes (SB 2202)**. One bill, **(AB 535)**, became effective on September 22, 1998. All other bills went into effect on January 1, 1999. The following are the changes to the statutes:

### **Increased Time Limits for Filing VOCP Applications**

Permits the filing of claims beyond the three year limitation for claims filed on or after October 4, 1993, **under the following circumstances:**

- The application was filed by a minor derivative victim and the direct victim is permanently disabled or dies as a result of the crime and no application was filed by a parent or guardian within the three year time limitation;

- The application is based on Penal Code (PC) Sections 261, 286, 288, 288a, 288.5, 289, or 289.5 (prior to January 1, 1995) **and** the victim was under age 18 at the time of the crime **and** the crime was reported to law enforcement or a child protective agency **and** either the investigating officer or the district attorney recommends that late filing be approved and the application is filed within one year from the date of that recommendation; **or** an applicable complaint, legal motion or indictment is filed;

- The direct victim dies as a result of the crime but the death is not discovered until after the three-year filing period has passed;

- The application was filed within one year of filing the indictment, or complaint based on the same crime **and** the district attorney recommends approval based on cooperation;

- The application is filed within one year of the victim testifying in a qualifying crime **and** the district attorney recommends approval based on cooperation.

- The application is filed within one year of the district attorney’s written decision not to prosecute **and** the district attorney recommends approval based on cooperation.

### **New Qualifying Crimes**

Expands the category of crimes eligible for VOCP benefits to include:

- Vehicular Manslaughter (PC Section 192 (c) and 192.5);

- Unlawful Sexual Intercourse (PC Section 261.5 (d)) in cases where the victim is under age 16 **and** the perpetrator is over age 21 **if** felony charges are filed.

- Child stealing in cases where the child is abducted for 30 consecutive days or more. Only the child and not the non-offending parent or caretaker

can be considered the victims under this provision.

### **Increased Emergency Awards**

Effective January 1, 1999, the maximum amount available for Emergency Awards will increase from \$2,000.00 to \$5,000.00 for funeral/burial expenses only.

### **Individuals Eligible for Mental Health Reimbursement**

Includes psychological interns to be reimbursed for mental health services and post-psychological interns who are pursuing training in a university or medical school under the supervision of a licensed mental health professional.

### **New Derivative Victims**

- Adds residents of all 49 other states as derivative victims;

- Allows the primary caretaker of the minor victim who assumes the caretaker responsibility of the victim **after** the date of the crime to receive VOCP benefits;

- Adds fiancée (in addition to finance’) to the list of qualifying derivative victims.

### **Extended Time Limit for Income/Support Loss**

- Extends wage loss to a victim to three years without requiring rehabilitation or permanent disability status.

- Extends loss of support to an adult derivative victim to three years.

### **Codification of Existing Practice in Determining Minor Eligibility**

- Requires that factors including a minor’s age, physical condition, psychological state, and compelling health and safety concerns be considered in determining a minor’s eligibility regarding involvement in events leading to the crime and cooperation with law enforcement.

- Allows approval of a claim for a minor derivative victim in cases of domestic violence where the direct victim is ineligible due

## **“Protecting Victims Privacy”** *Continued from Page 3*

response to a subpoena. In the event Board staff receive a request for these documents, the requestors will be directed to seek the records from the juvenile court.

### ***Correspondence***

When Board staff respond to correspondence from a victim or their representative regarding the victim's claim, the above guidelines apply for information in the file that may be used or included in the response. If an inquiry is received from a legislator or legislative staff, the Board may presume that the release of information is authorized.

### ***Providers of service***

Specific information that can be released to providers includes the status of the claim (approved, denied or pending), the amount of payment authorized to the inquiring provider, and the date the claim is scheduled on the Board calendar. Providers may not be given amounts authorized to any other payee or the total amount paid thus far.

### ***Third parties***

The privacy interests of persons other than the victim will also be protected. If release of information relating to a third party would violate their privacy rights, Board staff will delete any reference to that person before the documents are released.

### ***Restitution***

Because the VOCP is funded through restitution paid

by offenders, the VOCP vigorously advocates that restitution be assessed against all offenders in an amount not less than payments made by the VOCP. The VOCP may provide copies of bills redacted to protect the privacy and safety of the victim to support a request for restitution.

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## **“Legislation”** *Continued From Page 7*

to involvement in events leading to the crime.

### ***Victims of P.C. Section 261.5(d)***

- A victim's participation in events leading to the crime may not be considered.
- Provides mental health counseling benefits up to \$3,000.00. NOTE: Derivative victims of PC Section 261.5(d) are not eligible for mental health counseling expenses.

### ***Benefits for Post-Crime Primary Caretaker***

Extends benefits for the post-crime primary caretaker of a minor victim to include up to \$3,000 for mental health counseling if the treatment is necessary for the successful treatment of the minor victim.

*This publication will continue to provide updated information on legislative changes affecting the VOCP.*





